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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/808,358
Filing Date: March 25, 2004
Appellant(s): LAMBERT ET AL.

Michael G. Verga (39,410)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/15/06 appealing from the Office action mailed 5/3/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,564,930	Yu	10-1996
6059386	Yu	5-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yu (US 5,564,930 – herein after referred to as Yu '930) in view of Yu (US 6,059,386– herein after referred to as Yu '386).

With respect to claims 1 and 6, Yu '930 teaches a chassis (12) for an electronic device (10), comprising: a plurality of exterior walls (as shown in Fig 1) joined to each other to form a partially-assembled chassis, and a plurality of substantially planar interchangeable access panels (Fig 2 element 50, Fig 5 element 90) each removably attachable to the partially-assembled chassis (Via 62, 64, 72) so as to occupy at least a portion of the exterior wall vacancy (Column 3, Lines 49-52; Column 4 Lines 61-65), wherein each such access panel has a unique configuration of one or more apertures each providing operational access to components housed in the chassis, whereby a completely-assembled chassis is attained by removably attaching any of the plurality of interchangeable access panels to the partially-assembled chassis. Yu '930 fails to teach that at least one exterior wall is entirely vacated. Yu '386 teaches a computer

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chassis for an electronic device comprising a vacated exterior wall (20) which can be placed in the vacated portion to complete the full assembly of the chassis (As illustrated in Fig 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the interchangeable access panel of Yu '930 to include the entire rear panel as taught by Yu '386 to provide better access to the components of the computer system (See Column 1, Lines 40-42; having a removable panel as taught by Yu '386 provides for better access to the components compared to the partial opening of Yu '930).

With respect to claim 2, Yu '930 further teaches an interlocking system comprising at least one interlocking mechanism (68, 72) operably positioned at one or more locations in one or more of the partially-assembled chassis and each of the plurality of interchangeable access panels (tabs 58, 60, 62, 64, 66); wherein each interlocking mechanism detachably secures at least a portion of a selected interchangeable access panel to the partially-assembled chassis. (Column 3, Lines 49-52)

With respect to claim 3, Yu '930 further teaches that the configurations of one or more operational access apertures comprises one or more of the group comprising: at least one port aperture (98, 100); at least one expansion slot aperture (106); at least one power supply aperture; and at least one ventilation apertures.

With respect to claim 4, the teachings of the computer of Yu '930 being a server is implicit in that the definition of a server (a computer in a network that is used to provide services (i.e. as access to files or shared peripherals or the routing of e-mail) to

other computers in the network) allows the computer of Yu '930 to act as a server if desired by the user.

With respect to claim 5, Yu '930 further teaches that the electronic device is a personal computer (Column 3, Lines 8-10).

With respect to claim 7, Yu '930 further teaches an interlocking system comprising at least one interlocking mechanism (68, 72) operably positioned at one or more locations in either or both the partially-assembled chassis and each of the plurality of interchangeable access panels (tabs 58, 60, 62, 64, 66), wherein each interlocking mechanism detachably secures at least a portion of a selected interchangeable access panel to the partially-assembled chassis. (Column 3, Lines 49-52)

With respect to claim 9, Yu '930 further teaches that each configuration of at least one operational access aperture comprises a combination of one or more characteristics of aperture size, dimensions, quantity, orientation, relative position, location, and type of supported operational access. (As illustrated in Fig 5, i.e. 94 is capable of connecting a keyboard, and 102 a parallel cable, and the location of 94 differs from the location of 106)

With respect to claim 10, Yu '930 further teaches that the configuration of one or more operational access apertures (50, 90) of at least one of the interchangeable each access panels comprises: at least one port aperture. (Fig 5, 98, 100, etc)

With respect to claim 11, Yu '930 further teaches that the configuration of one or more operational access apertures (50, 90) of at least one of the interchangeable each access panels comprises: at least one expansion slot aperture. (Fig 5, 106)

With respect to claim 12, Yu '930 further teaches that the configuration of one or more operational access apertures of at least one of the interchangeable each access panels comprises: at least one power supply aperture (88, see column 4, Lines 21-24 where aperture 88 is for a connector which supplies power from the motherboard to the peripheral attached thereto).

With respect to claim 13, Yu '930 further teaches the use of one ventilation aperture (Any of the unused apertures (i.e. 106) can act as a means to ventilate the internal components of the chassis with ambient air).

With respect to claim 14, Yu '930 fails to specifically teach that the electronic device is a server, however the mere definition of a server (a computer in a network that is used to provide services (as access to files or shared peripherals or the routing of e-mail) to other computers in the network) allows the computer of Yu '930 to act as a server if desired by the user.

With respect to claim 15, Yu '930 further teaches that the electronic device is a personal computer (Column 3, Lines 8-10).

(10) Response to Argument

VII. Argument

A. The Examiner improperly rejected independent claims 1 and 6 and dependent claims 2-5, 7, and 9-15 as being unpatentable over Yu '930 in view of Yu '386 because there is no suggestion or motivation in the applied art to combine the teachings of Yu '930 and Yu '386.

1. The Examiner failed to provide any evidence to support a proper motivation to combine rejection.

With respect to the Appellants' remarks to claims 1 and 6 that, "Yu '386 neither teaches nor suggests providing improved access", the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the teaching/suggestion is found in the Yu '386 reference, specifically at Column 1, Lines 40-42 which states, "The present invention provides a computer case, which facilitates the replacement, update and maintenance of computer equipment". Or in other words Yu '386 teaches providing improved access to the internal computer components for replacement, update, and maintenance thereof.

2. Secondary reference access not the same.

With respect to the Appellants' remarks to claims 1 and 6 that, "Thus, it is inappropriate for the Examiner to argue that Yu '386 provides better access to support a motivation to combine when Yu '930 does not seek nor suggest the type of access afforded by Yu '386", the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or

all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In the present case the Yu '386 reference clearly suggests entirely vacating a wall of a computer chassis to provide, "a computer case which facilitates the replacement, update, and maintenance of computer equipment" (See Yu '386 Column 1, Lines 40-42).

The Examiner respectfully notes the Appellants' remarks on page 12 which recite, "The Federal Circuit has held in *In Re Mills* that there must be some desirability to make the modification, and the mere fact that the reference can be combined does not suggest a proper motivation to combine . (See, 916 F.2d 680, 682 (Fed. Cir. 1990).)" and, "Nothing in Yu '930 suggests that the type of access provided by Yu '386 is desirable or possible". The Examiner respectfully notes that *In Re Mills* does not require that that the base reference (In the present case Yu '930) suggest a need for modification, rather only that there must be some desirability to make the modification in the references as a whole (emphasis added). In the present case it is desirable to modify Yu '930 with the teachings of Yu '386 since doing so will allow improved access to the internal components to, "facilitate the replacement, update, and maintenance of computer equipment" (See Yu' 386 Column 1, Lines 40-42).

With respect to the Appellants' remarks to claim 1 that, "The Examiner's assertions of motivation to combine based on advantages wholly present in only the secondary reference is an improper use of hindsight", it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon

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hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In the present case the Examiner respectfully asserts that the hindsight was taken into account only using knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Appellant's disclosure. While the Examiner is required to read the Appellant's disclosure to gain knowledge of the present invention, the Examiner respectfully notes that one of ordinary skill in that art would acknowledge that removing an entire panel of a chassis will provide better access to the internal workings thereof.

B. Whether the Examiner improperly rejected independent claims 1 and 6, and dependent claims 2-5, 7, and 9-15 as being unpatentable over US Patent No. 5,564,930 to Yu (Yu '930) in view of US Patent No. 6,059,386 to Yu (Yu '386) when neither Yu '930 nor Yu '386 disclose an interchangeable access panel as defined in claim 1, either alone or in combination.

With respect to the Appellants' remarks to claims 1 and 6 that, "Yu'930 and Yu '386 each show panels which occupy the entire window vacancy in Yu '930 and the entire wall vacancy in Yu '386" the Examiner respectfully notes that both claims 1 and 6 merely require that each panel occupy **at least a portion** of the exterior wall vacancy

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(See present claims, see also Page 15 of the present appeal brief) which is clearly taught in the Yu '930 reference (see specifically fig 3 which shows at least a portion of a vacancy (between 72) which is occupied by a panel (50)). The Examiner further notes that such broad language as "at least a portion" incorporates anything from a very small portion to the entire portion of the vacancy being occupied. Therefore the Appellants' claims are more broad than the arguments suggest.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Zachary M. Pape

Conferees:

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LYNN FEILD
SUPERVISORY PATENT EXAMINER